IS THE HIERARCHY

AN AGGRESSION?

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In considering the controversy which has, for some time, painfully agitated the public mind respecting the establishment of a Catholic Hierarchy in England;—in reviewing the arguments which have been so ably urged on behalf of that measure, and the fallacious reasoning, and bold assertions with which they have been assailed; the writer of the following pages has arrived at the conclusion that a dispassionate refutation of those fallacies, and a temperate correction of all misstatements, whether intentional or unintentional, may still be of use.

However bitterly he may feel the cruel and undeserved invectives with which his Church has been attacked, the unfounded accusations, and coarse insults which have been heaped upon her, he will not return railing for railing. He can acknowledge the difficulty which even a candid mind may experience before it can emancipate itself from early prejudices: he knows the disastrous influence of such prejudices when refracted into the region

of the intellect; and he is unwilling to abandon the cause of charity without first endeavouring, by a plain and honest statement of the case, to remove the prejudices, and soothe the irritation of opponents. At liberty to judge impartially Englishmen will decide with their wonted discrimination.

The nations of the civilized world have looked with astonishment upon an agitation in which they can only distinguish the fury of party, the bitterness of personal animosity, and the rancour of religious bigotry. They demand, "Where is England's jus-"tice?—England's spirit of fair play?—England's "love of liberty? Will she, who has given to the "world a noble example of toleration, replace the "fetters which she struck away amid the shouts "of Christian men? Is the Queen's prerogative no "longer secure in the love of her people? Is Eng-"land again reduced to intolerance? And if so, is it "because she is growing weak?" Let the answer in future history be, "England was maddened, she "became calm—she was prejudiced, she became en-"lightened—she was unjust, she became just once "more—she was blind, and she opened her eyes—"her weakness was the impotence of passion, and "with her calmness she regained her strength."

These pages are addressed to the candid alone—to those who, wishing to judge rightly, have yet, on this occasion, adopted without consideration the unwarranted assumptions and illogical deductions of persons to whose authority they are in the habit of

deferring—to those who come to the investigation with minds clouded by habitual antipathies against foreigners, against priestcraft, against all implicit obedience to ecclesiastical superiors—to those many, moreover, who have applied themselves to the inquiry with an anxious desire to divest themselves of preconceived opinions, and who yet can only see in the new Hierarchy an uncalled-for aggression upon the Protestantism of the country, an illegal and insulting attack upon the privileges of the Anglican Church, the prerogative of our beloved Sovereign, and the political liberties of Englishmen. Let us, first, briefly advert to the state of the public mind before and at the commencement of the agitation.

One of the characteristics of the English public is a certain deliberate slowness in forming opinions. The British Constitution, the Common and Statute Law, the progress of civilisation, have been the gradual works of centuries. In other nations, the people play with Constitutions; codes of laws are erected by a stroke of the pen; international wars are the result of a fancied slight. But Englishmen claim the character of truth, consistency, prudence, patience. They give to the accused a fair opportunity of making his defence; and suspend their judgment until they have weighed his arguments, and tested his proofs. They assert that religious toleration is not merely a creation of English Law, a franchise of the British Constitution, but that it is an essential part of the national character. In

these claims there is much of justice, at least when the nation is in its normal state.

How, then, does it happen that the opposition to the so-called "Papal aggression" has been so sudden in its outburst, so rapid and extensive in its spread? Does this not afford a reasonable ground for believing that the religious and political liberties of the country have really been assailed? In order to consider this question, let us inquire whether the nation was indeed in a healthful and normal state, or whether there had not occurred a succession of causes, naturally tending to produce the present feverish paroxysm. It is with man's moral as with his physical nature. Whilst his body is vigorous, and his imagination sound, he need dread no infection; but when his body is enfeebled by disease, or his nerves unstrung by the idea of danger, he is suddenly struck down by the fatal miasma. A little consideration will show that in the recent state of England there existed predisposing causes for excitement, both of a religious and political nature.

The popular feeling on the present occasion is neither simply religious, nor simply political. It is a mixture of both. It has been rightly termed a "Protestant" feeling,—a word borrowed from a Church, which is the creature of, and subordinate to, the State. At one of the recent meetings Lord Lyttleton asked, "Would any conceivable invasion "of infidelity, rationalism, or religious, moral, or

"social evil whatever, have caused so universal, "simultaneous, and immediate movement in the "public mind as this has done? I can only say "that I hope it would, and that it may, should "the occasion arise; but it may be doubted." It assuredly would *not*. If the movement were based upon a genuine religious sentiment, would Anglicans, Presbyterians, Dissenters, Jews, men of all belief and men of no belief, men who possess no common bond of religious principle, have combined in the heterogeneous turmoil?

Neither is it purely of a political character, as is proved by the arguments of many, and especially of the clergy, who seem to have eminently assumed to themselves the privilege of exciting and directing the agitation. Witness the denunciations of the tenets of the Catholic religion, the insulting reiteration of the charge of Romanist idolatry, which form the staple arguments of county meetings and clerical addresses. A remarkable illustration of this occurred at the Devonshire demonstration, when a resolution objecting to the measure on constitutional grounds was proposed by Lord Fortescue, the lieutenant of the county, a nobleman holding a high position in her Majesty's household, and politically identified with the Government, and was negatived in favour of one proposed by Mr. Gorham, the superior recommendation of which consisted in the fact, that it condemned the "Romanising" practices of the Tractarians.

Of the religious causes for excitement, the first was the gradual spread of the Catholic religion in England, which for some years has been too marked to be deniable. Its progress has proceeded partly from the immigration of Irish Catholics, partly from conversions to Catholicism. This is not the place for considering the causes of that immigration. It was foretold, with all its consequences. It must now be looked upon as a great fact. An Irish labourer, coming to England, brings with him many of his social prejudices, and all his religious constancy. His attachment to his Church does not diminish with the length of his absence from home. It is rather nourished and vivified by religious isolation. Lord John Russell, in his celebrated letter, alludes to the "numerous Irish immigrants "in London and elsewhere," of whom, he remarks, that it is "even desirable that they should not be "left in heathen ignorance:" and the Bishop of Norwich, in his reply to his clergy, says of the Irish, "these masses of devoted Romanists form, in "their respective localities, the nucleus for con- "version; they swell the attendance at the Romish "chapels, and, giving greater scope and effect to "the ministrations of their Church, render it more "attractive." The conversions to Catholicism have been numerous, and many of the converts have been eminent for their talents, learning, and piety, and, in some cases, for their strong early prejudices against the Church of their adoption. These, too,

are facts which cannot be ignored; and the very remarkable spread of Catholicism amongst the poor in the manufacturing towns is well known.

Another predisposing cause may be found in the rapid growth of "Tractarian" doctrines within the Anglican Church. These doctrines were looked upon as the more dangerous because their supporters declared themselves the Reformers, or Restorers, rather than the opponents of the Church established by Law, while in their ritual, as well as in some of their tenets, they were thought to betray a strong affinity with Romanism.

The smouldering fire of jealousy was fanned to a flame by the recent controversy on Baptismal Regeneration; and the virtual denial of the Royal Supremacy by no inconsiderable portion of the clergy had rendered the public mind peculiarly sensitive on that point which was regarded by many as the Palladium of the political liberty of the Church.

About the same time, Dr. Cullen was appointed by the Pope to be Primate of Ireland, and his first act upon coming to that country, armed with Papal authority, was to call together the Synod of Thurles. The heads of the Irish Catholic Church met with a pomp and solemnity which recalled to mind the power and splendour of the Church before the Reformation: their deliberations were conducted in secret conclave, and the first result that became known was the condemnation of the Queen's Col-

leges, the creatures of the State, and the favourite object of the Government. These were a few of the "predisposing causes," of a religious or partly religious nature. To these must be added such political tendencies to excitability in the public mind, as are naturally engendered by distractions abroad, as well as divisions and discontent at home.

Before we proceed to the consideration of that measure which has been the immediate cause of an irritation so violent and so general, it may be convenient to state shortly the method to be pursued in the following pages. It is intended to demonstrate that the erection of the English Catholic Hierarchy was required for the well-being of the Catholic Church;—that that Hierarchy is strictly consistent with Law;—not opposed to the spirit of the Constitution;—not an aggression upon the Established Church, upon the religion of England, or upon the rights of British subjects;—that the charges brought against it are unfounded, and the arguments by which they are supported, fallacious;—that it was justifiable according to the broad principles of religious liberty, and justified by the practice of toleration, and by analogous acts of the British Legislature. Let us first enquire whether it was, as has been so generally stated, "uncalled for." A few distinct statements on this subject will suffice. Objections shall be afterwards considered in detail.

A. The Catholic Church is essentially an Episcopal Church.

This position will hardly be disputed. The Church is such by fundamental doctrine. She has been such in her normal state, historically, from the earliest ages of Christianity. That such a status is indispensably required for her internal government, is demonstrated by Cardinal Wiseman: "Holy orders," (which Catholics believe to be a sacrament) "require Bishops to administer them, "consequently a succession of Bishops to keep up "a succession of persons in orders."

But, to enable that government to be effectual—to enable the subordinate clergy to know under whose immediate superintendence they are placed—to prevent confusion in matters of Church discipline;

B. The ecclesiastical authority of the several Bishops must be restricted within certain definite limits.

Now, by what power can that authority be limited? The creation and limitation are not separate acts. They are one and the same act. If one power may appoint to an office, and if any other independent power may, without the consent of the former, assign limits to its jurisdiction, the second has virtually the power of annulling the act of the first; in which case, either the second act would be one of usurpation, or the first would have been done without adequate authority. Hence,

C. The limits of the episcopal jurisdiction, that is the diocese, must be defined by the power which has lawfully appointed the Bishop.

We now proceed to the question of "Title." The title Bishop (ἐπισκοπος) is not only venerable from its antiquity, but is peculiarly appropriate as expressing the idea of the ecclesiastical functions incident to the office. It is, however, necessary likewise that some distinctive designation should be appended, expressive of the *locus in quo*, the place wherein those functions are to be exercised. How has this been effected from the earliest ages of the Christian Church—from the days of the Apostles to the present time? "It is matter of undeniable history," says Mr. Bowyer, from whose able pamphlet much valuable matter, both of facts and argument, has been transferred to these pages, "that the Patri-"archs, Metropolitans, and Diocesan Bishops of the "Eastern Church, were entitled Bishops of particu-"lar places, such as of Ephesus, of Alexandria, of "Antioch, and of Smyrna, even before the reign of "Constantine, and when the Church was unrecog-"nized and even persecuted by the civil powers." The same system has prevailed throughout the whole Church, and prevails to this day. It has been copied by the Anglican Church. Common sense itself suggests that the designation of one holding an office, the jurisdiction of which is territorially limited, should convey an idea of the place wherein this jurisdiction exists. The Bishop of Melipotamus

exercised episcopal functions over a defined district of England; but exercising them, not *quâ* Bishop of Melipotamus, but *quâ* Vicar of the Pope, the name of his district was made to form part of his vicarial designation.

It is as historically true as it is reasonable, that

D. The natural, proper, and primitive mode of designating Bishops is to confer upon them titles of "Bishop of A, or Bishop of B," viz., of certain towns or places within their dioceses, such towns or places being those containing the Church where the Bishop is set, with his college of Presbyters about him.—(Hooker's definition of a See.)

We are here met by a favourite but illogical argument, viz., that "the Catholic Church in England has been governed for nearly two centuries and a half by Vicars Apostolic:" that, "the establishment "of a regular hierarchy was, therefore, unneces-"sary;" and that "a legislative prohibition of "what is not necessary cannot be an act of intole-"rance." Not necessary for what? Of course this argument must mean, *not necessary* for the *due* administration of the Catholic Church. A false assumption is here made, viz., that, because the Church has been administered without a Hierarchy, it has been so administered *duly*, and that its functions have been efficiently discharged. The Catholic Church does not assert, any more than the State, that her administrative system is at all times

perfect. Her claim to perfection is confined to her doctrinal Faith. After the Reformation, the strong hand of man prevailed against her outward fabric. Penal laws, engendered by hatred or cupidity, and vindicated by the usual pretext of danger, visited with death the exercise of ecclesiastical functions. The Church meekly bowed before the storm.

When persecution had somewhat abated, a quasi-toleration permitted the existence of Vicars Apostolic. Cardinal Wiseman informs us that the Constitution of Pope Benedict XIV., issued in 1743, as a code of Government for English Catholics, was based upon the following considerations; 1st. "That the Catholics were still under the pressure "of heavy penal laws, and enjoyed no liberty of con-"science; 2nd, that all their colleges for ecclesi-"astical education were situated abroad; 3rd, that "the religious orders had no houses in England; "4th, that there was nothing approaching to a "parochial division, but that most Catholic places "of worship were the private chapels, and their "incumbents the chaplains of noblemen and gentle-"men." It was clearly impossible for a Church in so degraded, proscribed, and irregular a condition to possess a government in its most perfect, natural, and normal form. It is only astonishing how, under these circumstances, any thing like a regular government could have been instituted. But it was not perfect; and Anglican writers have repeatdly made the imperfection of the system an argu-

ment against the Church. Gradually the penal laws were repealed, or became obsolete. The Emancipation Act was passed. No further obstacle to the institution of a Hierarchy existed. Why was it not then created? Because to do so did not seem good to the Holy See. The Church moves slowly and gravely; her acts are not hasty; they are not intended to be ephemeral, but to last for all time. They must be the result of patient deliberation.

Another, and still more palpable fallacy, lurks in the objection stated above. Even admitting, for the sake of argument, that the administration of the Church under Vicars Apostolic was a due and perfect form of government at the time of its institution, and up to the year 1829, does it follow that it is such now? Is it certain that the advance of Catholicism throughout the length and breadth of the land may not have rendered that necessary for Church government which was not necessary before? As well might it be said that no Reform Bill was necessary because none was passed till 1831, or that Catholic Emancipation was a needless luxury, because the country had dispensed with it till 1829. It is thus that men discuss the needs of their neighbours. They are more keen-sighted as to their own. Few Churches, perhaps, would be well constituted if their requirements were left to the arbitration of their rivals. A Hierarchy is essential to the well-being of the Church. If our adversaries use the word *essential* with reference to

the absolute *being* of a Church, they may discover, ere long, that to that neither cathedrals nor chapels are necessary.

It requires no argument to prove that

E. Uniformity of discipline must be the general law of any Church. It is so essentially of the Catholic Church.

It has been already shown that to this general rule there must of necessity be occasional exceptions; but such exceptions by no means disprove the rule, which must, indeed, be a fundamental axiom of any Church. It is equally clear that

F. Uniformity of discipline throughout the Church cannot be expected to exist without a similarity of ecclesiastical organization throughout its several branches.

From the principles contained in the paragraphs marked A, B, C, D, E, F, we arrive at the conclusion—which is the first step in our argument—viz., that

1. The new Catholic Hierarchy, with assigned territorial jurisdiction, and with titles derived from the Sees, was required for the proper, natural, and normal government of the Catholic Church in England; and the power which could lawfully appoint the Bishops, was that to which properly appertained the right to invest them with titles, and nominate them to dioceses.

If the conclusion now arrived at be correct, it is impossible any longer to assert that the present measure was "*uncalled for.*"

Let us next consider the question, "To what "authority belongs the right of appointing Catholic "Bishops in England?" Those who are most zealous for the claims of the State have never asserted for the Royal authority a power to create or to fill up Catholic Sees. Suppose that the Queen were to nominate a Catholic ecclesiastic to a Catholic See in Ireland;—he would be a mere powerless intruder; his appointment would be utterly null and void; he could not attempt to exercise the functions of a Bishop in maintaining the law and discipline he had set at nought. Such a supposition does not deserve our moment's consideration.

Will any one affirm that the power of nomination, in the first instance, rests with the State, and that of accepting and confirming such nomination with the See of Rome, as in some other countries? Where such is the case, it is the result of a special arrangement, or Concordat, with the Pope; and the privilege so accorded to the State is a concession made by him, an abdication, or rather delegation, pro tanto, of his own inherent right; in return for which he receives the civil recognition, and endowment of the Church. That such is the case, is manifest from his reserving to himself the power of accepting or rejecting the State nomination. But in England no such arrangement ex-

ists: nor can it exist as long as British Law ignores the existence of the Pope in his spiritual capacity, and requires from the chief officers of the State, and most members of the legislature, a solemn oath, denying that he has or ought to have any Spiritual Jurisdiction in England.

The absurdity and impracticability of at once ignoring the Pope, as a Spiritual power, and affecting to limit the exercise of his Spiritual authority, has been by no one more fully and clearly stated than by Lord John Russell. On the 17th of August, 1848, in reply to some questions asked by Sir R. Inglis, touching the rumoured appointment of the new Hierarchy, the Prime Minister observed: "With regard to Spiritual authority, the Hon. "Gentleman must see, when he alludes to other "States in Europe, that whatever control is to be "obtained over the Spiritual authority of the Pope "can only be obtained by agreement for that end. "You must either give certain advantages to the "Roman Catholic religion, and obtain from the "Pope certain other advantages in return, among "which you must stipulate that *the Pope shall not* "*create any Dioceses in England without the con-*"*sent of the Queen:* or, on the other hand, you "must say that you will *have nothing to do* with "arrangements of that kind—that you will not con-"sent to give any authority to the Roman Catholic "religion in England. But then, *you must leave* "*the Spiritual authority of the Pope entirely un-*

"*fettered.* You cannot bind the Pope's Spiritual "influence, unless you have some agreement." According to this statement, as no Concordat has yet been formed, the duty of the State is simply "to have nothing to do with" the recent exercise of the Pope's Spiritual authority; to give it neither sanction nor opposition, but simply to ignore it.

The primitive, fundamental, and tolerated doctrine of Catholicism is, that the Pope is the Supreme Head of the Church, and that he alone can give jurisdiction to Bishops. The Council of Florence declares "credo ipsum Pontificem Romanum "successorum esse Beati Principis apostolorum, et "verum Christi vicarium, totiusque ecclesiæ caput, "et omnium Christianorum patrem et doctorem "existere; et ipsi in Beato Petro pascendi, regendi, "et gubernandi universalem ecelesiam, a Domino "nostro, Jesu Christo, plenam potestatem traditam "fuisse." This claim of right has never been abandoned; never been concealed. It has ever proved a source of obloquy and misrepresentation directed against Rome. Her opponents every day assert, with equal temerity and falsehood, that she extends her claim of jurisdiction to the temporal affairs of foreign States.

It is easy to account for this confusion of thought. In the early periods of English history Bishops were not only spiritual prelates, but temporal lords: their hands were sometimes better accustomed to the sword than to the crosier; and, in the endless

wars of disputed succession which fill the blood-stained pages of our chronicles, they wielded the military strength and temporal riches of their principalities, rather than their dioceses, in favour sometimes of this, sometimes of that pretender, and shared the fortunes of those stormy times. The clergy were confessedly one of the estates of the realm. The Bishops often lived in baronial castles, filled with armed retainers, and sometimes foreign mercenaries, and did homage to the Crown for the temporalities they enjoyed in right of their ecclesiastical position. We find that even the most lawless of our ancient monarchs occasionally acknowledged the distinction between the temporal and Spiritual power of the clergy: for instance, when King Stephen had captured some Prelates, openly in arms against him, he detained them in prison until he had seized their temporalities, and then released them.

It is obvious that where the State confers nothing on the Church, it can demand no surrender of her spiritual independence. This great truth is recognized in the United States, a country not commonly thought enslaved by priestcraft, or indifferent to national independence.

No arguments applicable to the present question can be drawn from the annals of times when the ecclesiastical and the political functions of the clergy were so closely united and often confounded: nothing to disprove the truth of our next position, that—

2. The Act of His Holiness, in according the Catholic Hierarchy to England, an Act necessary for the due administration of the Catholic Church therein, was one which he, and he alone, had power to perform.

But, even admitting the above position, our opponents may rejoin that English law forbids the operation of the Papal power within this realm. It has, however, been asserted by but a few among the numerous writers and ardent declaimers on the subject, that there is any law in existence which prohibits the new Hierarchy. The opinion of Lord John Russell is easily deducible from the terms of his letter. He says, "Even if it shall appear that "the ministers and servants of the Pope in this "country have not transgressed the law, I feel "persuaded that we are strong enough to repel "any outward attacks." Again, "I will only say, "that the present state of the law shall be carefully "examined." His Lordship does not indeed speak with certainty; but, coupling his published words with the intention, commonly attributed to him, of introducing a prohibitory law, it appears, with tolerable clearness, that the careful examination, though undertaken in no friendly spirit, has proved that the existing law has not been transgressed. It is as needless, as it would be endless, to quote the admissions of opponents as to the non-existence of a forbidding law. One man, indeed, whose

great erudition and former high position at the Bar demand the most respectful consideration for his opinions, Sir Edward Sugden, attempted, in a platform speech at the Surrey meeting, to prove the violation of the law. He, at the outset, expresses himself doubtfully: he says, with reference to Cardinal Wiseman's assertion that nothing had been done contrary to the law, "I am not at all satisfied "upon that head. The law, no doubt, is in an "anomalous state, which reflects no credit on the "legislature." These expressions indicate that the very refined positions which he subsequently advanced were not delivered with the grave, deliberate certainty of his magnificent judgments from the Bench. His argument is two-fold:—1st. that in the reign of Queen Elizabeth it was enacted that "no foreign prince, prelate, or potentate, hath "or ought to have any jurisdiction, civil or eccle-"siastical, within this realm;" and, "that whoever "framed or acted upon any declaration or notice "that any foreign prince, &c., had any power, &c., "should be liable to certain penalties:" that the penalties have been since repealed, but that the first declaration still continues law. Again, that by 13th Elizabeth, "any person who shall receive, "use, or publish, any bull, letter, or instrument "from the Bishop of Rome, shall suffer death as a "traitor:" that the penalty, indeed, is repealed, but that the act remains unlawful. The question involves a great principle, and must be considered

apart from mere legal technicalities. Religious freedom must not rest on quibbles.

The reason of this "anomalous state of the "legislature" is very plain. The Pope's claim of Supremacy rests upon certain theological doctrines opposed to those of the Church of England. The general withdrawal of Statutes repudiating the Pope's claim might be argued to be an admission of schism on the part of the Church founded on Law.

But how, as the spirit of toleration advanced, was the practical injustice inflicted on individuals by the operation of those laws, to be obviated, without compromising the Church, or wounding the national sensibilities? How were the Catholics to be allowed to enjoy their civil rights? How were the great laws of religious liberty to be practically carried out?

First, by the great Act of 1829, which was a substantial repeal of the principle of the statutes of Elizabeth, as far as regarded Catholics: next, by repealing the penalties, although the enunciation of a naked dogma was permitted to remain on the statute-book, unenforceable, and, to all practical purposes, obsolete. What other reason can be assigned for repealing the penalties? Sir Edward foresees the question, and insinuates that the penalties were repealed because they were too severe. If so, milder punishments might have been substituted, as the Bishop of Exeter strongly urged; but this was not done. The speech of Lord Lyndhurst in the House of Lords, May, 1846, proves

that the opinion of that sound constitutional lawyer is opposed to that of Sir Edward Sugden. He says that, "It is *no crime* in the Roman Catholic to "maintain the Supremacy of the Pope; but that if "he did it for mischievous purposes, and circu- "lating immoral doctrines and opinions, he was "liable to punishment by the common law; but if "he merely maintained, as he was bound to do, "the Spiritual authority of his superior, he was "guilty of no offence against the laws of his "country."

Sir Edward proceeds, "It is equally clear that "by the repeal of that law, it was intended to "enable the Roman Catholic to put himself in "communication with the See of Rome. It was "said, *rightly enough*, it is of no use to grant "Roman Catholics the rights of their religion if "they cannot communicate with the head of it;— "therefore, no communication necessary for the "exercise of their religion with perfect freedom "should be objected to." Sir Edward puts himself out of Court. It cannot be reasonably argued that a law intends, at the same time, to enable persons professing a particular religion to communicate with the head of their Church, and to make it unlawful for them to declare that he is the head of their Church, *i. e.* to recognize his spiritual supremacy. Moreover, a permission to communicate *with*, necessarily involves a permission to *receive communications from* (the very thing prohibited by 13 Eliz.); and who will say that commu-

nication with the supreme head of the Church is not necessary for the exercise of the religion *with perfect freedom?* Sir Edward proves too much. If he be right, *every* ecclesiastical act performed in England by the Catholic Church is a violation of law, in the same sense as the existence of a Hierarchy is a violation of it; for every such act is grounded on the Papal claim of supremacy. If, on the other hand, those acts be severally no infraction of the law because, though they imply, they do not expressly assert the Papal claim, the same defence is equally available for the Hierarchy now that it has been established. Even supposing the publication of the Rescript to have been originally unlawful, the continued existence of the Hierarchy affirms the Papal Supremacy in no other sense than that in which the existence of the Vicars Apostolic affirmed it: "*factum valeat: fieri non debuit.*"

Sir Edward continues "Although those pains and "punishments are no longer operative which were in- "flicted by the Statutes of Elizabeth, there are pun- "ishments which the law will inflict upon those who "disregard the injunctions of the Acts of the legis- "lature." It is undoubtedly true, that offences against Common Law are punishable as such, although no specific penalties have been attached to them by statute; but it cannot from this principle be justly concluded that acts, which are not illegal at Common Law, but which, by a stretch of legal

ingenuity, may be supposed to be prohibited by particular statute, incur penalties at Common Law, the penalties previously attached by statute having been specifically removed by the very statute from which the illegality of those acts is presumed.

Sir Edward Sugden comes next to the Emancipation Act, and, seeing the overwhelming force with which it refutes his former reasoning, quietly observes "it did not repeal the various acts which "had from the time of the Reformation been "enacted against the Roman Catholics, but it sus-"pended them." Suspended them! Is it the spirit of the Law of England to allow highly penal enactments to hang suspended over the heads of the Queen's subjects, to be arbitrarily enforced or disregarded? Are the citizens of this great nation to consider themselves but as tolerated rebels? Such a principle is alike unknown to the British constitution, and subversive of all liberty. Perhaps Sir Edward may fancy that the laws of Elizabeth are specially "*suspended*" in favour of Catholic Members of Parliament, and none others their co-religionists. Such an absurdity could never have been the intention of the Legislature. It could not have intended to permit Catholic Members, and no other person of that religion to "frame or act upon a declaration or notice that a foreign prince, &c., had ecclesiastical jurisdiction within this realm," or to "receive, use, or publish any bull, &c., from the Bishop of Rome." No! The Act of Emancipation

intended to relieve *all Catholics* from the obligation of denying the Supremacy of the Pope. It intended to render lawful all ecclesiastical communication from the Church to its Head, and from the Head to his Church. The subsequent repeal of the penalties of the 13th of Elizabeth, was the indignant erasure from the Statute book of bloody and obsolete laws.

The quotations in Cardinal Wiseman's unanswerable "appeal," taken from the speeches delivered by Lord John Russell and Lord Lyndhurst, 1846, prove this fact. Lord John says, "there are "certain bulls of the Pope which are absolutely "necessary for the appointment of Bishops and "Pastors belonging to the Roman Catholic Church. "*It would be quite impossible* to prevent the intro- "duction of such bulls." Lord Lyndhurst's language is still stronger:—"the moment, therefore, that "they sanctioned the observance of the Roman Ca- "tholic religion in this country, they, by implica- "tion, allowed the communication with the Pope, "prohibited by this statute, and for which it im- "posed the penalties of High Treason. If the Law "allowed the doctrines and *discipline* of the Roman "Catholic Church, it should be permitted to be "carried on perfectly and properly; and that could "not be done without such communication."

Sir Edward Sugden's second argument is this—all Catholics are morally bound by the oath taken by Catholic members of Parliament. Such members solemnly abjure any intention of subverting the Church establishment. The act of the Pope is an

attempt to subvert the establishment. Therefore, his abettors in this country are perjured. This argument must, indeed, have been intended for a provincial audience, in a high state of excitement. Sir Edward Sugden cannot have been serious. He will not gravely maintain that an oath imposed upon the holder of a certain office, limiting the mode in which he is to exercise its functions, is binding on those who have nothing to do with the office or its functions; nor will he seriously say, that to give an improved organization to the Catholic Church is an attempt to subvert the Anglican Church. But, if the first premise of Sir Edward's second argument be correct, it goes far to contradict his first argument; because, if all Catholics be morally bound by the Catholic members' oath, they must be likewise morally exempted from the obligation of denying the Pope's supremacy, from which the Catholic members are, by the omissions in that oath, specifically released.

The anomaly, of which he complains, arises from an attempt, on the part of the State, to uphold a controversial doctrine. The State must bear the consequences of theological legislation.

The relations subsisting between the Government and the people are not to be disturbed by legal casuistry. The broad principles of justice and toleration, upon which the Constitution has been gradually moulded, and by virtue of which that Constitution claims the affection of the people, and Eng-

land the respect of the world, must not be lightly cast aside. The moral sense of the country stands pledged to the plain meaning of recent laws and countless precedents. Wise and upright statesmen, the framers of our laws, intended to relieve the consciences, to remove the disabilities, to secure the civil and religious liberty of those who differed from them theologically. They have succeeded, and

3. The Papal creation of an English Catholic Hierarchy is not illegal by the laws of England.

Having seen that it is not prohibited by law, let us proceed to examine whether it be opposed to the spirit and theory of the Constitution; and, first, whether it be an infringement upon the Royal Supremacy. To put the question with greater accuracy, let us ask whether it has done anything which the Queen, as head of the Anglican Church, had an exclusive right to do; or whether it hinders her from exercising any power or privilege enjoyed by her in that capacity. It assuredly has not usurped the Royal authority as head of the Church by appointing in England Catholic Bishops, with dioceses, and titles derived from their sees, because, as has been shewn before, the Queen has no power to appoint Catholic Prelates; nor does it abrogate or lessen her right to create, with the concurrence of the Legislature, new Anglican Bishoprics, with the very same dioceses and titles as those of the Catholic Hierarchy.

The principle of the Queen's Supremacy asserts only her authority over the Church established by law: it claims for her no jurisdiction over the Catholic Church, tolerated by law, acknowledging, and by law entitled to acknowledge, its own Supreme Head. The Act in question in no manner concerns the Anglican Church, nor does it affect a single individual within that communion. It confers ecclesiastical jurisdiction, but assumes no right to enforce it by any coactive means; it claims canonical obedience, but that claim necessarily addresses itself to those only who recognise its authority.

The all-important distinction between a moral and a constitutional claim, is thus clearly stated by the Bishop of Exeter. His Lordship says, in his petition to the Queen, "Your petitioner could not "truly say with them, that the Pope, by appointing "Bishops to Sees in this country, has assigned to "them spiritual power and jurisdiction over the "people of this country, in the only sense in which "the principle of our Constitution, that 'no foreign "prelate or potentate hath, or ought to have, in "this realm, any authority or jurisdiction, tem-"poral or spiritual,' is consistent with truth or "justice, or the rights of conscience. For the "authority and jurisdiction thus denied to be had "by the Pope, in this country, is, and can only be "understood to be, authority and jurisdiction in the "external form—coactive power—that authority and "jurisdiction which the laws recognise and enforce.

" For it is a known maxim of law, *id habemus, quod* " *jure habemus;* and in no other sense than this " could any conscientious man swear in the words " of the oath of Abjuration; it being known or " believed by all that the Pope hath, in fact, autho- " rity and jurisdiction, *in foro conscientiæ*, over all " who are in communion with him."

It seems strange that so plain a distinction should have been overlooked; but jealousy is not discriminating. The language used in the Address of the Bishops to the Queen, to which the Bishop of Exeter alludes, is as follows: " It is a part of the " same assumption, that, in defiance of the law " which declares that no foreign prelate or poten- " tate shall use or exercise any manner of power, " &c., within this realm, the Bishop of Rome has " assumed the right of exercising Spiritual dominion " over the people of this country; and, in nominat- " ing certain Romish ecclesiastics to particular " places or Sees in England, *has revived his claim* " *of Supremacy over this Realm, and has usurped a* " *prerogative constitutionally belonging to your* " *Majesty alone.*"

Let us investigate the meaning of this charge: the misconception upon which it rests is probably the chief cause of all the agitation we have witnessed. It has been shewn that no actual law has been transgressed or defied. It remains to be proved that the Theory of the Constitution respecting the Queen's Supremacy has not been invaded, even by implication.

Our opponents say, "the rescript is addressed to "all England; it assumes to extend ecclesiastical "jurisdiction over all England; it claims canonical "obedience from all Englishmen." This sounds specious; but let us look at it a little more closely.

The Papal Supremacy is a doctrine of the Catholic Church—a doctrine which any person, not a Catholic, is, of course, free to deny, but which can be asserted in no other terms than those of a universal proposition. It is the doctrine of the greater part of the Christian world—a doctrine which lies at the foundation of the Catholic Church; and, being obviously neither immoral nor anti-social, it is entitled to the same toleration as the doctrine of Transubstantiation, or Purgatory, or any other doctrine, particular or universal in its scope, professed by any Persuasion tolerated in England. "But," it will be rejoined, "the Papal Supremacy is not a doctrine only, but a "*claim*." Very true. Let us, therefore, inquire into the nature of that claim. If a mistake be made on this subject, it may well be urged that the Catholics, far from being entitled to a Hierarchy, are not entitled to toleration in its humblest form. In this matter we have cause to remember past times, and are literally pleading "pro aris et focis." If the Pope be a Pretender, those who acknowledge his authority cannot be loyal subjects to their Queen.

By Catholic doctrine, then, the Pope is, *de jure*, the ecclesiastical head of all Christendom, "Om-"nium Christianorum pater et doctor." It is this

circumstance which alone entitles him to assert his Apostolic authority beyond the single diocese of Rome. His claim extends to England because it embraces the world. He could not, therefore, use any other language in his Rescript without abdicating an authority which the Church, in whose name he speaks, holds to be based upon Divine institution, and thus destroying her whole religious system. But that authority, wide as "the general air," is impalpable as air: it opposes no obstacle to the walls and fences of constitutional government, and removes no land-mark of the law.

The charge brought against it by the Bishops is founded upon a misconception of the *nature* of the Papal claim. It is an attempt to put two things in relation to one another which have no one element in common. They say—"The Queen is supreme "head of the Church of England: the Pope's Re- "script assumes ecclesiastical supremacy over Eng- "land: the latter claim is inconsistent with the "former." The conclusion is not logically deduced, unless the two claims be of the same nature. It is as absurd as it would be to say that the parent's original claim to the obedience of the child is inconsistent with the subordination of each to the civil magistrate. The distinction here insisted on is not that between rights *de jure* and rights *de facto*. The law may justly be jealous of claims *de jure*, because rights *de jure* often want but *power* to become rights *de facto*, and some unforeseen change of cir-

cumstances may give that power. The distinction we now have to do with is that between claims, which, by their own theory, profess to have their existence in the conscience alone, and to be enforceable by the operation of the conscience only, and those which by their nature profess to have an outward existence, and an outward sanction. The claim to a kingdom, or an estate, although merely advanced as a theoretic right, existing *de jure*, and without any concomitant attempt to enforce it, is yet a claim of something which in its own nature is of an outward character, and enforceable by outward means; and it must be resisted as such. The Pope's claim of supremacy, by its very essence, exists, and professes to exist, only in the inner Court of Conscience, and is only enforceable by the power of religion upon the souls of men; whilst that of the Queen assumes to exist in law, and to be enforceable by law. The two claims are confessedly different in essential nature: they profess to be claims of things having no common measure: they move in distinct, though parallel lines, and can no more come into collision than two trains, one on the Northern, the other on the Great Western railroad: they exist in different worlds of philosophy; and the mere fact that both are advanced in the same country gives them no mutual co-relation.

The claim of a power in a Church to enforce upon its own subjects canonical obedience by canonical means rests upon a wholly different foundation.

Such means may or may not affect the civil rights of individuals. If they compromise those rights in any degree, they can only be exercised conditionally, and so far as they are tolerated. Excommunication, for instance, so far as it affects a man's estimation in society, or his worldly prospects, is not a purely ecclesiastical act, valid only in the Court of Conscience, but a mixt act, embracing temporal and spiritual relations. So far as it compromises legal rights, it exposes whoever exercises such a power to legal penalties. The same principle applies to other ecclesiastical acts of a mixt character. With such, however, we have here no concern. The creation of the Hierarchy, on the other hand, is a purely spiritual act. It does not in any respect affect the civil position of the Catholics of England: in case of their disobedience, it subjects them only to the consciousness of being bad Catholics. With regard to non-Catholics, it is as practically inoperative as the declaration against the Papal supremacy is inoperative upon the Catholics in whose favour it has been repealed. It does not attempt to *parcel out* the lands or counties of England, in the sense in which the word is popularly understood, as conveying possession or legal title: it does not abridge, or seek to abridge, the liberties and rights of British subjects: it does not affect, or claim a power to affect, their social position: it does not limit, or profess a right to limit, the exercise of whatever may be Her Majesty's prerogative as Head of the Anglican Church, or

Sovereign of England: it does not lessen, or pretend a right to lessen, the powers, privileges, dignities, or temporalities of that Church: it does not disturb the reciprocal relations which subsist between English Protestants and their Church. The Papal claim to jurisdiction, on which it rests, must from its *origin* ever be a universal claim, but from its *nature* it is binding on those alone who feel themselves conscientiously called on to respect it. The apparent antagonism between the universal claim and the limited application exists only for those who habitually identify their idea of a Church with the law of the land. The confusion which exists on this subject is one which a Catholic mind could never have anticipated, and can the less understand, because the vital distinction insisted on above is involved in every tolerated ecclesiastical act performed by Catholics. In theory, then, and in practice,

4. The Papal creation of an English Catholic Hierarchy is not an infringement on the Queen's Supremacy as head of the Anglican Church.

Let us consider another objection. It has been frequently asserted, that to invest the Hierarchy with English titles, is an infringement upon the prerogative which the Queen constitutionally enjoys as the Fountain of Honour. A little attention will show that in this statement there is more of sound than of sense.

Titles, which may be defined as honorary distinctions designating certain powers, privileges, or precedence recognizable by the law, may be divided into two sorts: 1st, Those which are naked titles of honour—such as 'dukes,' 'earls,' 'barons,' 'knights,' to which are legally attached peculiar privileges and precedence; and, 2nd, titles which designate a certain executive position, and embrace the idea of powers and duties inherent in it. Of the latter sort are ecclesiastical dignities. A baron or an earl may or may not possess legislative functions; but a Bishop is one to whose office it belongs to command the subordinate clergy, to ordain, confirm, and perform certain other ecclesiastical duties. Titles of the first class proceed from the Queen, as the Fountain of Honour. Of titles of the second sort, the only source can be the person possessing a right of appointing to the office, conferring the power, and enforcing the performance of the duty; and it is for this reason that, as Mr. Bowyer observes, "Cruise says nothing of "Bishops; and Selden does not include Bishops in "his celebrated treatise of titles of honour." "The "purely spiritual office of an Archbishop or a "Bishop, of a particular place, as contradistin-"guished from the temporalities and the temporal "incidents, such as a seat in Parliament, sometimes "annexed thereto by the civil power, is indeed far "more ancient than any dignity known to the "common law."

British law gives to the Queen no power to confer upon Catholic Prelates the titles which designate their Spiritual rank and functions. Had it done so, it would have empowered her to enforce the performance of the duties inherent in the office; and their position would have been recognised by law.

But it may be replied, "Ecclesiastical titles, "whatever they may have been originally, are now "no longer purely of the second sort; they partake "largely of the character of naked honorary dis-"tinctions conferring precedence." Such is not the fact as regards Catholic dignities in England. Protestant ecclesiastical titles have acquired a mixt character through their temporal incidents; but it is otherwise in the case of the new Catholic Bishoprics. Their titles are merely the distinctive designations of persons exercising Spiritual functions. Even were the fact as stated by our opponents, no invasion of the Royal Prerogative has taken place. All titles, whether of the first or second sort, issuing from the Queen as Fountain of Honour, must be legally recognizable. The law must of necessity recognize what the Constitution creates. If privileges and precedence be conveyed, such distinctions must be supported by the law. But the Catholic Prelates of England have no privileges, and claim no precedence, amongst the Queen's subjects. Their existence is not legally recognised. They do not ask that it should be. If they possess any precedence, it is arbitrary, conventional; it is given or

withheld at will, and is enforced by none save a social sanction. With such offices England abounds, and their number increases without let or hindrance. If a munificent donor were to found a scientific Society, or a College, and to direct that it should be governed by a President or a Chancellor, would the election of such President or Chancellor be an infringement on Prerogative? Certainly not; no more than the ribands of May-day interfere with the decorations of the Bath and the Garter. The misapprehension arises from the analogy erroneously supposed to exist between Catholic and Anglican ecclesiastical offices. This is abundantly clear from the fact that no exception has ever been taken against the assumption of the titles of Vicars Apostolic of certain districts in England, though such are just as much the designations of Spiritual dignities as are those of Bishops or Archbishops. But then, it is said, "Bishops and Archbishops" are English titles,—"Vicars Apostolic" are not. Let England, if she pleases, participate in the titular denominations which belong to the Church of Christ; but let her not claim them exclusively as her own. They belonged to the Church before England was a nation.

It is, however, urged that the objection is not to Cardinal Wiseman as "Archbishop," but as "Archbishop of Westminster." It has been already seen that the creation of such a title was in conformity with the proper, primitive, and universal

mode of nomenclature used in the Church; that it is not forbidden by the letter or spirit of any law; that, from its essential nature, it is not within the scope of the Queen's prerogative, as Fountain of Honour. We shall now proceed to examine whether it was not distinctly justified by precedent, and permitted by law.

Let us consider the case of the Anglican Bishops in Scotland. The Statute 3 and 4 Vic. c. 33, describes them as "exercising episcopal functions "within some district or place in Scotland." The Queen has given them no territorial titles. Yet, in the address from four of them to the English Episcopate they style themselves "Bishop of Aber- "deen, Bishop of Edinburgh, Bishop of Argyll "and Isles, Bishop of Glasgow and Galloway." Does the assumption of these titles touch the sensibilities of the Royal Prerogative? No:—it has always been permitted. The case is precisely in point. If the Queen alone possesses the power of granting ecclesiastical territorial titles, it must be an aggression on the part of the Anglicans, as much as on that of the Catholics, to assume such titles without a Royal grant. Anglicanism does not give the privilege of disputing the Queen's prerogative. It is quite true that the Scotch titles do not proceed from a "Foreign Power." That circumstance, however, is wholly distinct from the question at issue, namely, whether or not the Royal Prerogative, as the Fountain of Honour, be invaded

by ecclesiastical titles not conferred by the Crown. The true meaning of the Papal Jurisdiction has been already shewn:—nor do the Anglican Prelates in Scotland rest their case upon so poor a confession as that their titles are indeed a violation of the Constitution, and that they owe their immunity to their insignificance.

Another case in point may be found in Ireland, where not only a Catholic Hierarchy, but a regular Catholic parochial division exists, usually, but not always, conterminous with the parochial division for the purposes of the Anglican Church. The Catholic priests are always styled "Priest of A. or B." This designation is not distorted into the assumption of a civil dignity, nor are they stigmatized as rebels against the Royal Prerogative.

The Papal appointment of Dr. Blake to the newly created See of Galway, is a recent precedent. In this instance, the office of a "Warden" was changed into that of a "Bishop," as in England that of "Vicar Apostolic" has been so changed; the difference between the two cases being that the change in England greatly detracts from the Papal authority.

But the Emancipation Act has set the matter at rest. It forbids any person to assume the title of a Bishopric or Archbishopric *already belonging to the Established Church.* It thus undertakes to settle and declare the law respecting ecclesiastical titles. It has, according to every principle of law,

and common sense, permitted Catholic ecclesiastics to bear territorial titles not already appropriated to Anglican Prelates. The important principle has now been established that

5. The investing of the English Catholic Hierarchy with territorial titles is not an infringement on the Queen's Prerogative, as "Fountain of Honour."

The next charge to be noticed is this,—that the new Hierarchy is an aggression upon the 'Protestantism' of England. The utter vagueness of the accusation proves the weakness of the case. What is meant by the word? Edmund Burke tells us that he never could get a plain answer to this question. The "Protestantism of England" refers to two distinct things:—1st, to the circumstance that, by English law, the supreme civil government of the country is lodged in the hands of Protestants: that certain great offices must be filled by Protestants: that the Sovereign must be Protestant; and that the national Church, maintained and protected by the State, united to the State by certain temporal incidents, and acknowledging in the State the jurisdiction of ultimate appeal, must be Protestant. This is Civil Protestantism. 2nd. The expression means that the great body of the English people hold those religious opinions which have been called Protestant; or, rather, that themselves holding positive opinions of different and contradictory character, they unite in one grand negation, a protest against

the doctrines of the Church of Rome. This is 'Theological Protestantism.' Civil Protestantism is the creature of law. Law created it, and may sustain it, and will punish any aggression upon it. Theological Protestantism is the creature of opinion. Far from appealing to legal authority, it rests on "private judgment." It can only be *civilly* protected by religious persecution. These two essentially different ideas are confused (sometimes wilfully, sometimes no doubt unintentionally) by those who raise the present outcry. They must stand separately in the reply.

The foregoing arguments have proved that no aggression has taken place upon the rights or privileges of the Established Church, or of the Queen as Supreme Head thereof. It is not pretended that the rights of British citizens have been abridged; or that any alteration has been made in the Protestant constitution of England. Her "Civil Protestantism" remains intact.

Catholics will not deny that the establishment of the new Hierarchy may incidentally affect the "Theological Protestantism" of England, as it makes the contest between the two Churches less unequal. This, too, is evidently the opinion of the Bishop of Norwich, who says to his clergy, "I do not wish to "magnify the danger of the improved organization "of the Papal Church: but neither should we look "at it with apathy. Rely on it, if the day of trial "is at hand, in which we must contend for the

" true faith against the encroachments of that " Church, it is not in the Queen's cabinet, or in " the arena of Parliament that the contest will be " decided, but in our parishes, severally. The " occasion is one which should rouse the clergy " generally to make themselves thoroughly familiar " with the questions between the Church of Rome " and ourselves; and wherever, and whenever it " may be needed, to make their flocks familiar with " them." He then proceeds to give instructions as to the mode in which the controversy is to be carried on. The Bishop speaks with manly candour. He bursts through the film of sophistry in which the question is enveloped. He knows that a theological contest,—a war of opinion,—is at hand, and teaches his clergy how to fight it out. He does not appeal to the arm of the law for the protection of the theology of his Church; but acknowledges that it is just to give to Cæsar the things which are Cæsar's, and to God the things which are God's.

We have thus arrived at the conclusion, that

6. The appointment of a Catholic Hierarchy in England was not an invasion of English Protestantism, upon legal or constitutional principles.

An objection has been urged against the Papal act on the ground that it is the act of a Foreign Power; and the argument is put in two ways— 1st. That it is contrary to the Law of Nations. 2nd. That the fact of its emanating from one who

is both a Foreign Temporal Prince, and a Spiritual Potentate, renders it improper and aggressive. The objection, in either form, is one which appeals strongly to English prejudice,—to that confused jealousy of the Pope, and the Pretender, which is instilled early into the minds of many who do not know the difference between the two. Let us consider the matter dispassionately.

Even were it to be admitted that the Papal act was within the scope and operation of the Law of Nations, (which is by no means admitted,) it would not stand opposed to that law. The fundamental principle of international law, as indeed of all law, is "sic utere tuo, ut alieno non lædas." It has been already proved that "the Act of his "Holiness, in according the Catholic Hierarchy "to England was one which he, and he alone, had "power to perform;" and it has been shewn that by the practical operation of that Act the rights, privileges, and immunities heretofore existing in England have been in nowise affected.

If full diplomatic relations, and a concordat, existed between Rome and England, the manner in which the Hierarchy was constituted would doubtless, have been a breach of national compact. But the Pope could not have formally demanded consent from the British State for such a measure, —a State, which ignores his very existence as Head of the Catholic Church. No government could have been in a position either to give a consent, or

to prohibit the measure. What was possible to be done, he did: he mentioned the matter, inofficially, to Lord Minto, the quasi-English-Minister to Italian Nationalities.

The absence of a Concordat is England's deliberate choice. The prohibition of official intercourse was adopted, according to the Bishop of Norwich, as one of two devices for the protection of the country from Papal encroachments. His Lordship observes, "In some shape or other, we find provision "made in various countries, Romanist as well as "Protestant, for restraining the exercise of Papal "authority, which, from its nature, is otherwise "liable to formidable abuse. In our own country, "the safeguard established at the Reformation was "of a different kind," (viz. different from a system of Concordats.) "All official communication with "the Pope was interdicted. Whilst other nations "secured themselves, or endeavoured to do so, by "compact with the Sovereign Pontiff, England "adopted as her security a renunciation of all offi- "cial intercourse."

After remarking that this safeguard has been somewhat relaxed by the late Act, permitting official intercourse with the Pope, as temporal sovereign, his Lordship proceeds:—"Another, however, and, "let us hope, a more efficient safeguard is still pre- "served—the transfer of ecclesiastical supremacy, in "these realms, from the Pope to the Sovereign. "* * * This constitutional principle has, no

" doubt, been infringed in one point of view, *by the* " *independence which the Dissenting bodies claim;* " but not as to its main object and intent. It is a " provision against foreign interference."

Here, then, were the two measures adopted by England for preventing encroachments from Rome. This was, at one time, the mode in which she regulated their international intercourse. How have these measures been dealt with, as the country grew wiser and better—as the fever of the Reformation cooled down? The Pope is no longer civilly excommunicated in his temporal position, because a prohibition of official intercourse with a friendly State was felt to be antagonistic to the Law of Nations, and England was ashamed of participating in the barbarism of the Chinese.

Again, the necessity of denying the supremacy of the Pope was removed, as we have already seen, as far as Catholics are concerned, by the Emancipation Act; and it is but reasonable to conclude that, as the creation of that necessity intended to restrict the interference of his Holiness with the affairs of the Catholic Church in England, the removal of that necessity meant to restore to him his ecclesiastical rights over that Church as Sovereign Pontiff. The exercise of those rights which England has voluntarily restored—the right of free communication between the Catholic Church and her head—cannot be a violation of the Law of Nations.

With respect to the second objection, founded on

the fact that the Pope is a Foreign Temporal as well as Spiritual Potentate, it must be observed, that the Legislature itself has expressly admitted the twofold nature of the Papal Power. The appointment of the Bishops is notoriously the act of the Pope as Head of the Church, not as Sovereign of the Roman States. It would have been equally valid if done by a Pope divested of all temporal power. It is, therefore, exclusively an exercise of his Spiritual functions; and the fact of his being a foreigner, cannot affect the exercise of a right which he does not possess *quâ* an English subject. Another step has been gained. It appears that

7. The appointment of a Catholic Hierarchy in England was not rendered unlawful, improper, or aggressive, by the fact that it proceeded from a Foreign Power, possessing Temporal as well as Spiritual rights.

It is now time seriously to inquire on which side the aggression really has been. We have seen that what has been done was not unlawful or unconstitutional. Let us next proceed to examine whether, to withhold from English Catholics the enjoyment of a complete Hierarchy, would not be an act contrary to the first principles of toleration and religious liberty?

The legal toleration of a religion means this—that all who profess that religion shall be permitted by law to entertain their opinions, and to

assert them openly, provided such profession be not contrary to good morals, or the civil rights of their fellow-subjects; and that, with the same restrictions, the Church shall be allowed to carry out its discipline in its most perfect and normal form. Such was the view taken by Lord Lyndhurst when he said, that "if the law allowed the doctrines "and discipline of the Roman Catholic Church, it "should be permitted to be carried on perfectly "and properly."

Such is the opinion of the Bishop of Norwich, who writes thus: "The measure itself is nothing of "which we have any right to complain, *consistently* "*with our toleration of Romanism. But an* "*Episcopal Church is not tolerated if we interfere* "*with its liberty to appoint Bishops, to determine their* "*number and rank, and to bestow upon them any* "*titles, provided their titles infringe on no existing* "*rights.*" The Bishop's principal objection is, that the arrangement is made in England by a Foreign Power; yet he proceeds thus, so strong is his sense of the meaning and value of toleration: "And yet, "as a foreign Supremacy is essential to the very "existence of the Romish Church in England, it "was manifestly necessary, from the first, either to "permit the Romanists to acknowledge the Pope as "their Supreme Head, to the exclusion of the "Sovereign's claim, or else to prohibit their reli-"gion altogether. The course adopted is well "known. Exclusion from certain important rights

" which belonged to them as subjects, was the con-
" dition under which the divided allegiance was
" tolerated. Certain restrictions were further im-
" posed on the exercise of their religion, and en-
" forced by pains and penalties. The expedient
" proved a failure. *Half-toleration, such as that,*
" *never answers its purpose.*"

The Bishop's lucid reasoning serves not only to establish the true meaning of toleration, but to overthrow Sir Edward Sugden's legal argument: " It was necessary either to permit the Romanists " to acknowledge the Pope as their Supreme Head, " or else to prohibit their religion." A middle course was attempted. It failed; because " half- " toleration never answers its purpose." Whole toleration was resorted to, and Catholics were permitted to recognise and assert the Supremacy of the Pope. How were they so permitted? Not by the lame and impotent method of removing the penalties, and leaving the act unlawful; not by granting them liberty, and telling them it was unlawful to use it; not by a juggling attempt to unite the realities of persecution with the boast of toleration; but, by honestly removing the restriction altogether;— and that was done, *quoad* Catholics, by the glorious Act of 1829, which, important as it was, as admitting individual Catholics to the rights of citizens, was not less important as emancipating the Catholic Church from the thraldom of laws which forbad her to recognise the essential doctrines of her Faith.

It has been sometimes maintained that a Hierarchy should be interdicted to Catholics because the Pope has instituted it in order to effect the spread of Catholicism; and that those who make use of toleration for purposes of proselytism forfeit their claim to be tolerated: and analogies are drawn between the officious meddling too common in private life, and the proselytism of a Church. Let us, in the first place, look at the language of the Rescript. The strongest expressions that can be found in that instrument with reference to the spread of Catholic doctrines are these,—"Thus, "then, in the most flourishing kingdom of England "there will be established one ecclesiastical pro-"vince, consisting of one Archbishop, or Metropo-"litan head, and twelve Bishops, his Suffragans, "by whose exertions, and pastoral cares, we trust "God will grant to Catholicity in that country a "fruitful and daily increasing extension." There is nothing offensive in these expressions; but even if there were, could such a circumstance render it consistent either with logic or justice to refuse a lawful privilege to millions of fellow-subjects? The analogy drawn between social and ecclesiastical proselytism is wholly unsound. A layman is not commonly a teacher; nor is he, under ordinary circumstances, qualified to interfere with the faith of others. Nay, he is frequently, according to the forms of society, by some arrangement, expressed or understood, bound *not* so to interfere; but with

a Church, the case is wholly different. Teaching is her essential duty. The Divine command directed the Church to "teach all nations." Her doctrines cannot be taught without disproving those which contradict them. Controversy is doubtless an evil; but no manly mind will imagine that it can be avoided. Let it be conducted fairly. It is too true that controversy may easily be disgraced by bigotry, intolerance, or irregular zeal; yet, while it is carried on exclusively by means consistent with social order, and civil freedom, with charity, with good sense, and good manners, it will meet with respect from those who have faith in truth, and would not suppress discussion by authority. In such matters the Catholic Church has the same rights as every Persuasion claims, and is not to be refused toleration because she discharges her functions. The toleration of a Religion necessarily includes a permission to avail itself of the most perfect organization, the strictest discipline, the most effectual teaching. This, and no more, is sought for by Catholics; and, if this concerns the Anglican Church, it is a matter for the consideration of divines, not of statesmen.

If proselytism involved the forfeiture of toleration, the law would have explicitly declared to every tolerated Persuasion, the conditions upon which it should enjoy its liberty: but the law, by its practice, has pronounced that proselytism is no offence. Baptists, Socinians, Unitarians, Metho-

dists, Quakers, Jews, are free to send forth the thunders of controversy from pulpit, synagogue, or hogshead in the market-place. Bramins and Buddhists may convert, if they can. Infidels even are not prevented from disseminating their atrocious doctrines, provided they steer clear of blasphemy punishable by law. Why is toleration not denied to all these? Because the law protects those who respect it. Because, to make the enjoyment of religious liberty dependent on abstinence from what is not unlawful, would be an act of unmitigated tyranny.

What is the conduct of the Anglican clergy themselves? Look at their proceedings in Ireland. There, indeed, they do not confine their exertions to pulpit eloquence, or to private argument; but in too many instances they use arms which are not the legitimate weapons of controversial war. They are not ashamed to proffer the clothing of a naked child, or the food of a starving wife, as inducements to forsake a faith from which alone their convert expects salvation. Their stock-in-trade consists often not in doctrinal reasoning, but in the miseries of the famished poor. Yet, even such proselytism does not excite the indignation of England. On the contrary, the system is sustained by English subscriptions; and those who most denounce it as reprehensible have not recommended that it should be made punishable by law.

The legitimate modes of proselytizing are, ex-

ample, prayer, written and oral argument. With the first two the public has clearly no concern. The use of the latter two, provided they be not employed in a manner contrary to good morals, or civil rights, is vindicated not only by religious toleration, but by two great principles inseparable from liberty, namely, freedom of the press, and freedom of speech. The cause of religious toleration is the cause of civil liberty. Let those who voted for Emancipation remember that they argued once that to deny to persons on account of their religion the power of doing that which was their natural privilege as citizens, was, in fact, to impose penalties upon the exercise of that religion; and let them not now betray the cause of constitutional liberty by refusing to Catholics their Hierarchy, on the futile pretext of proselytism.

There is one mode of propagating a Faith which is indeed repugnant to the essential principles of law and justice:—propagation by persecution. An agitation like the present, which has for its object the prohibition of lawful privileges, and which holds up the doctrines of Catholics to popular execration, their characters to popular contempt, and their persons to popular fury, is a persecution. Let the social persecution suffice without the supplement of a legislative persecution.

The practice and usage of toleration, throughout the British dominions, are in themselves sufficient to prove the accuracy of our definition of toleration.

Let us examine how far a status analogous to the Hierarchy has been recognized and tolerated by the British Crown, and by British Law. It may, indeed, be strongly urged that the existence of such a status, with the knowledge of the Government, and without their disapprobation, coupled with certain legislative recognitions, is in itself conclusive as to its legality: but, let the question be regarded now as one of toleration, and not of legal rights. We have already shewn that the Hierarchy is consistent with the principles of the constitution, and of sound political philosophy: we proceed to prove that to refuse toleration to that Hierarchy would be inconsistent with the precedents of English policy.

Let our present position be that, 1st, The toleration of the ecclesiastical status of the Catholic Church, heretofore, within the British dominions, afforded a moral pledge that such toleration would be accorded to the new Hierarchy: that, 2ndly, It would be as unwise as it would be unjust to retreat from the system of toleration existing heretofore.

What has been the position of the Catholic Church in England, in Ireland, and in the Colonies?

In England, the Pope was the immediate Bishop, and his authority was delegated to certain persons who exercised his episcopal functions, as his vicars, taking their titles from certain named districts, not called dioceses, because, under the constitution described, England formed but one Catholic diocese. There is a marked distinction, in an

ecclesiastical point of view (with which, however, the State has no concern,) between the Vicariate and a regular Episcopate: but, as far as concerns the constitutional objections urged against the Hierarchy, the analogy between the two is perfect.

The Vicars were persons appointed by a Foreign Power. They exercised Episcopal functions, within *territorial limitations*, in England; and they possessed English *territorial designations*. True, they were not English Bishops. Their very names implied that they exercised Episcopal authority in the name, and at the will, of the Pope, the Bishop of all England. Whether is it more offensive to this country, that his Holiness should perform his functions through his Vicars, removable at his will, or that, surrendering his own power of direct action, he should constitute, once for all, an independent English Hierarchy? The recognition of the Vicars of a foreign Bishop, exercising as such Vicars, Episcopal jurisdiction, is a recognition of Bishops.

With respect to titles, the only change made is that from district to diocese: with regard to a territorial "parcelling out" of the country, the only change is from larger to smaller divisions. No new element is introduced by which a right to toleration is compromised.

The analogy afforded by the case of Ireland is equally strong. In that country the Catholic Church has been governed by a regular Hierarchy. The Bishops, in regular succession, hold ecclesias-

tical sway over certain fixed Dioceses, and their titles as conferred by the Pope, are derived from their Sees, their Sees being generally the same as those belonging to Bishops of the Establishment. It is true that their signatures consist generally of their christian and surnames alone; yet in grave official documents their territorial titles have been given to them. Dr. Cullen, and Dr. Murray are described as Roman Catholic Archbishops of Armagh and of Dublin, in the official appointment of Visitors to the new Colleges; and petitions signed by the "Archbishop of Tuam," have been received by Parliament after grave deliberation. Their territorial titles have been thus not merely tolerated, but actually recognized by the highest authority. Their ecclesiastical rank has been expressly acknowledged by the Commission under the Charitable Bequests Act, and by the notorious practice of the Vice-regal Court; and, if the arguments drawn from the continuance upon the Statute book of the prohibitions of the Statute of Elizabeth have any weight, their ecclesiastical rank is as much an unlawful asssumption as their territorial titles. The Priests exercise undisturbed sacerdotal jurisdiction over the parishes from which they derive their designations; and, though they are generally appointed by the Bishops, yet, in all cases of appeal, the ultimate resort is to Rome, and, in some cases, the parochial appointments proceed directly from Rome. If the existence of a regular Hierarchy in Ireland

be lawful, why is it not lawful in England? Is the constitution different in the two countries? If it be aggressive, and yet tolerated in Ireland, is it wise or just to refuse a similar toleration in England; and did not the toleration in Ireland afford just grounds for believing that a Hierarchy would be tolerated in England?

Our opponents, seeing how hardly they are pressed by the analogy of Ireland, attempt to draw a distinction between the two countries, insisting on those points in which they differ, while they ignore those in which they are the same. They say that a Hierarchy should be permitted in Ireland because it has always existed there. What? Should it be allowed to continue if it be an infringement upon the Constitution; an invasion of the rights of the Established Church; an attack upon the Queen's Supremacy, or her Royal Prerogative? It is utterly impossible to point out a valid reason for believing that it is all this in England, and not in Ireland. The principles of Constitutional toleration are the same in both countries, or rather, according to the Act of Union, in the one Realm of which England and Ireland are integral parts. The Established Church, by that Act, is one United Church at both sides of the channel. The Queen's Supremacy and Royal prerogative extend to Ireland. The boasted Protestantism is the Protestantism of the Nation, not of some of its parts; and Catholicity in Ireland is identified with Catholicity in England.

If a Catholic Hierarchy be subversive of national

or ecclesiastical rights, its toleration in Ireland since the Act of Union must have been unconstitutional, as well as unjust and partial. Will our opponents deny this? If so, they must prove, not that the Constitution *ought to be*, but that it *is*, different in the two countries. If they admit it, they must, in consistency, attempt, by the enactment of a new Penal code, to restrict religious liberty in Ireland. Let them think seriously before they answer that they will allow the aggressive Hierarchy to continue in Ireland, but will prohibit it in England. The logical effect of such a course would clearly be to declare that the Established Church, and the *constitution of the realm*, (the rights of both of which are presumed to be invaded) are not the same in England and in Ireland, (thereby renouncing the Act of Union;) or else, that, being the same, the Government is determined to protect them in England, and in Ireland is compelled to leave them to their fate. The practical effect would be that the Irish people—aye, and the world—would say, that, in this hasty abdication, Parliament had given up the battle so long, and so strenuously fought for the Legislative Union, as well as for the existence of the Establishment in Ireland. Will it be alleged as a reason for taking this course, that the great mass of the Irish people are Catholic? The point at issue is not that of numerical majorities, but of the existing constitution. It may, indeed, be well urged that the different

circumstances of England and Ireland render expedient a corresponding diversity in their ecclesiastical relations. This is both true and important; but this is not the question. At present, the ecclesiastical constitution of the two countries is the same in all points that touch the existing controversy, for neither the grant to Maynooth, nor the "Regium Donum" have ever been supposed to alter the nature of the Royal Supremacy. That constitution may be altered: but what would be the consequence of leaving it unaltered, and yet admitting that in Ireland it is incapable of being carried out? One of the first inferences would be, that, the theory of a common Royal Supremacy having been disposed of, and the separate integrity of Ireland having been conceded, the Catholic Church ought, as the religion of the people, to be exclusively established in Ireland, as the Presbyterian Church is in Scotland. This would be the beginning, but not the end.

This is no fanciful suggestion. The fears entertained by the Protestant Archbishops and Bishops in Ireland, are gravely expressed in their recent address to the Archbishop of Canterbury. Men of all shades of political opinions have perceived by a common instinct that, not alone a distinct legislation for the English Church, but even a separate remonstrance on its behalf, is, in principle, subversive of the Irish Establishment. After remarking upon an assumption of the titles of

" Archbishops and Bishops of the Church of Eng-
" land," which they prove to be illegal, they pro-
ceed to say " We have painfully felt that of late
" years, as well in legislating on ecclesiastical
" affairs, as on many public occasions, a disposition
" has been manifested to regard the Irish provinces
" of the United Church as if they did not form an
" integral portion of the one Church of the nation.
" We are conscious that the Irish branch of the
" Church is peculiarly exposed to the attacks of its
" enemies, and we are, on that account, the more
" apprehensive of any step being taken which has a
" tendency, even in appearance, to disunite our
" provinces and bishoprics from that great commu-
" nity with which it is our happiness, and, we hope,
" our safety to be identified. We, therefore, not
" unnaturally, fear the effect which may be pro-
" duced by a movement on the part of our English
" brethren against a common adversary, in which
" they have not only acted without any concert or
" communication with us, but have styled them-
" selves by a name which would seem to intimate
" that they are Prelates of a separate Church from
" ours, and wish to appear so before Her Ma-
" jesty." The same alarms are expressed in their address to the Queen. The Prelates of the Establishment in Ireland are wise. They object to the fate of Jonah. To them it not unnaturally seemed strange that their English brethren should be guilty of the identical offence charged upon the Catholic

Hierarchy — that of taking illegal titles. A "Church of England" is no more recognised by law than a "Parliament of England."

But to proceed, there are other precedents equally in point. It was reasonable to presume that the toleration accorded to Catholic Bishops, enjoying territorial titles, in the British colonies, would not be denied in England. In Australia, a regular Hierarchy has been created by the Papal authority; and their open exercise of episcopal jurisdiction, and their undisguised assumption of titles, have never been challenged by the British Government. They have been directly and deliberately sanctioned by the Colonial Law officers of the Crown, and their exact precedence has been determined.

The case of North America is still stronger, because the language used by the Colonial Office to Cardinal Wiseman, when he conferred with the Government in 1842, as to the intended creation of a Hierarchy there, amounted to a direct recognition of the principle upon which the English Hierarchy has been appointed. The answer, as we learn from the Cardinal himself, was, "What does it matter "to us what you call yourselves, whether Vicars "Apostolic, or Bishops, or Muftis, or Imaums, so "that you do not ask us to do anything for you? "We have no right to prevent your taking any "title among yourselves;" words exactly similar to those of Lord John Russell, in reply to Sir Robert Inglis, already quoted. The Colonial Office gave

no permission, and none was asked; but it admitted that the Pope had, without permission, a right to create a Hierarchy within British dominions, provided he sought for nothing from the Government. Accordingly, the North American Prelates were regularly appointed, and their office, style, and title have been formally acknowledged by the Colonial Acts of Parliament.

Lastly, Toleration for the Catholic Hierarchy was presumable from analogous Acts of the British Legislature, and the Royal authority, in the creation of Anglican Bishoprics in places not within the realm. The Act 5th Vic. c. 6, authorizes the English Archbishops to consecrate Bishops for foreign countries. It further authorizes such Bishops to exercise Spiritual jurisdiction, within limits to be assigned by the Queen, in foreign countries. Under the sanction of this Act, Dr. Alexander was consecrated Bishop; and Syria, Chaldea, Egypt, and Abyssinia were assigned by the Crown as the limits of his jurisdiction, that is, as his diocese. Here we have an English Protestant appointed as Bishop over a defined diocese in foreign States—in States where the Protestant religion is not tolerated by law. His appointment is a civil, temporal, act, emanating from and sanctioned by, a British statute; and as such it has a tendency to come into collision with the civil rights of the countries to which it extends. It has been urged, indeed, that some foreign consent was first sought and obtained.

Such consent is not contemplated as necessary by the statute. In fact and truth, no real consent from a Power competent to give that consent, was ever obtained. Even if it had been, that circumstance would not have disturbed the real analogy between the two cases, since the toleration of the English Hierarchy might have been reasonably presumed from British law, and from the principles and practice of British toleration. It is unnecessary to enlarge upon the case of the Bishopric of Gibraltar, constituted under the same Act, and embracing within its diocesan limits territories not appurtenant to the Crown. This case, with those of the Protestant Bishops in Lower Canada, where a Catholic Hierarchy previously existed, is a significant comment on the theological position laid down by some of the Anglican clergy, that the Papal act is one of *Schism*. This is but one out of many difficulties which will be found by those who attempt to reconcile the political with the ecclesiastical objections urged against the Catholic Hierarchy. We have never been informed, for instance, whether the consent of the Patriarch of Jerusalem was asked or obtained for the invasion of his diocese: neither are we told how far he approves of the attempts at proselytism to the Anglo-Prussian Church, which have taken place there.

It has now been shewn that,

8. The creation of the Catholic Hierarchy in England was fully warranted by the first prin-

ciples of toleration and religious liberty; by the practice and usage of toleration throughout the British dominions; and by analogous acts of the Imperial Legislature.

The foregoing pages have not been written in the spirit of party, or of religious one-sidedness. They are the result of a genuine love of liberty, whose sacred name has been profaned, and whose character has been falsified by the fierce aggression of the late and present agitation. The groundlessness of that agitation is betrayed by the irrelevant nature of many among the pleas by which it is supported. To one of these it may be well to allude—the plea of discourtesy.

If the new Hierarchy itself be justifiable and lawful, as we have shewn it to be, it is unworthy of a great country to complain of discourtesy in the mode in which it has been introduced. But, in truth there has been none. The tone of the Rescript was calm and dignified—the language such as was required by the inherent nature of the religious dogma on which it rested. Far from being insidious, the design had been for years notorious, and the chief appointment had been prematurely announced in the Catholic Directory for 1848. It was the subject of questions and ministerial explanations in Parliament. When that design was carried into execution, it was done without secresy or reserve; and the very circumstance so frequently denounced

as insidious, viz., the entertainment of a collateral hope that the Hierarchy might hereafter, besides its more direct benefits, avail towards the gathering in of English Protestants beneath the wings of the Church of Rome, was put forward, distinctly though without ostentation, in that creating instrument, which was published unreservedly and without loss of time. If an insult had, indeed, been offered intentionally to the people of England, it ought to have been met by a just but dignified remonstrance, in which none would have joined with a more becoming zeal for the national honour, or with hearts more loyal to their Queen, than the Catholics of the realm. But the tocsin of a religious war was sounded: its banners were emblazoned with insulting devices; and those who, for years, had shared the troubles as well as the glories of the nation, were charged with duplicity, idolatry, systematic perjury, and disloyalty.

Let us consider the probable effects of a measure prohibiting a Hierarchy, or declaring its titles illegal. This retrograde law could not be extended to Ireland. It would be manifestly impossible to abrogate the privileges enjoyed by the Catholic Church there for centuries—privileges which, by recognition, have expanded into acknowledged rights; and if, in 1829, it was not safe to refuse to make an advance in toleration, it would not now be wise to make the "fountains of the sacred stream" of religious liberty flow back towards their source.

There is no statesman reckless enough again to

breathe into the face of that devoted country the pestilential breath of a religious war. The consequences of a former system of penal enactments, now, thank God, obsolete, are widely scattered over the face of the land. They are to be found in the miseries of the people; in the difficulty of administering the law; in the recognised defects of the national character. They have re-acted upon the social state of England. If Ireland be the chief difficulty of England, it is because for so long a period Ireland was the great arena of persecution. Such must ever be the results of religious intolerance upon the civil and political elements of society. Social harmony and religious discord cannot co-exist; and, as surely as punishment pursues the offence, so surely will political calamity be the consequence of an attempt to enslave the consciences of men. Ireland is still groaning, shivering, tottering, beneath misfortunes unexampled in the annals of the world. Would any minister dare to crush the first germ of her recovery? On the other hand, we have already seen what would be the consequences of legislating for England alone in a matter so closely interwoven with Constitutional principle, and thus of conceding to Ireland, according to the assumption of our adversaries, the anomalous position of a chartered outlawry.

The effects of adverse legislation upon the Catholic Hierarchy will be utterly nugatory. The secular arm is powerless to negative a spiritual act. The

Bishops will be Bishops still, because their appointment is the Spiritual act of one having Spiritual authority. Their jurisdiction will continue to exist within the prescribed limits. Their titles will be acknowledged by the whole Catholic world. The puerile expedient of prohibiting titles by solemn legislative enactment was tried before; though the Duke of Wellington, whose manliness of character would not allow him to put forward an imposture for a reality, confessed that he knew that it was useless—that it was but a sop to vulgar prejudice. It failed. Successive Governments have been ashamed to enforce a law so absurd. Should a new enactment be passed, going further in the same direction, it may, indeed, be deplored as a return to religious persecution, but it cannot alter the position taken, once and irrevocably, by the Prelates of the Catholic Church in England.

Should any one imagine that the phrase "religious persecution" is too strong to be applied to a mere suppression of titles, he must remember, that if our opponents attach such grave importance to the titles in question as to account them a violation of political independence, there may be good reason for Catholics also to regard their suppression as an act involving principles inconsistent with religious freedom. What those principles are, has been already indicated. We have distinctly seen, first, that without a territorial Episcopate the Catholic Church can never possess such an organization as

she requires now, or may require at any future time; secondly, that the suppression of territorial titles can only be justified by the assumption that they are illegal—an assumption founded on an estimate of British law wholly new, and such as would render illegal every act involving the Papal Jurisdiction; thereby placing whatever liberties Catholics have hitherto enjoyed at the mercy of arbitrary interpretations, and the caprice of a hostile majority.

The institution of the Hierarchy calls for no triumph. It is no victory. It may indeed be made one by a weak and fruitless opposition; but the only sentiments which it ought to excite in Catholic hearts are, a grateful joy that the organization of the Church has been rendered more adequate to her own internal needs, and a humble hope that thereby her discipline may be improved, her ministrations extended; so that, by her example and by her preaching, she may draw to herself many souls redeemed from that mass of heathenism, which, by the confession of all, oppresses, degrades, and endangers no inconsiderable portion of this realm. Let such be the Church's revenge; since it is her necessity, as well as her duty, to bless those who persecute her. By such affectionate aspirations let her children seek to disarm their enemies. But, if it prove impossible to overcome the blind fury of popular prejudice, and the rancour of that religious "wrath which wills not that its wounds be healed," let them not hesitate, with a voice sorrowful, but

firm, to announce that they will maintain their rights by all lawful means; that they will never forsake the cause of liberty, the true interests of their Royal Mistress, and the honour of England.

The Catholics claim from the nation the unfettered exercise of the recognised rights of their Church. They demand it firmly, remembering that they are British citizens, and confiding in the justice of their country. If, fearing where no fear is, she should seek her safety in oppression, they will be doubly wronged, and their deepest sorrow will be for her disgrace.

In the recent agitation, the Clergy of the Established Church have taken a prominent part. It may not yet be too late to ask them whether their course has been just or generous. Whether their "recent appeal unto Cæsar" has been wise, relatively to their own Church, will be a matter for their own consideration at leisure. We would, however, remind them that to none of those things which Cæsar gave and Cæsar guards, have their Catholic fellow countrymen made a claim. To the Clergy of the Established Church belongs all that a State can confer, and much that it never could give. To them, without opposition, belong tithes and fines, and ecclesiastical domains, baronial palaces, and glebes and parsonages. Their dignities are secured by whatever civil sanction can be imparted by legal recognition, and seats in the legislature. They possess also the cathedral institutions, the ancient

Universities, and all the noble provisions for education and charity bequeathed by the piety of Catholic times. They have with them the Crown, the great bulk of the aristocracy, the professions, the middle classes, the mass of the people. Why then need they fear us? They have with them, as they believe, the spirit of liberty, the progress of civilization, the hopes of England: they have with them as we confess, all the strength which proceeds from prescription, public opinion, and rooted prejudice. Why then should they so fear us as to deny us what alone we ask, the normal organization of our Church? By them at least we shall not be told that episcopacy is non-essential, or that such an organization as served our need, when our numbers were not one-fourth of what they have become, must be sufficient for us now. Let them remember that, in denying us what is necessary for the due administration of our Church, they deny us what, according to their own principles is essential to the moral and spiritual edification of our poor. Let them ask themselves whether, boasting an establishment, they are justified in refusing us toleration; and whether, if an approach to titular equality be so grating to them, the brand of inferiority which they propose to fix can be agreeable to their brethren?

And may we not ask why should the middle and lower classes be exasperated with a sudden frenzy against those who have sat and conversed with

them in their homes, or shared their toils and recreations, reaping in the same field, or dancing together on the village green, or, on Sundays walking together to the little hamlet, and separating there, each for his own place of worship;—and all this in perfect harmony and Christian love? Let them make our case their own. Would they permit the organization of their Church to be prescribed by men who called that Church Babylon, or Anti-Christ, or by a different class which denied its ecclesiastical right to exist? What would they say, if informed that their legal rights were null and void, because not acted on as early as their rivals thought natural; and, that, in any part of the Queen's dominions in which they chanced to be a minority, they must, however flattered elsewhere, account themselves but as aliens to the constitution, tolerated in proportion to their insignificance, but with the sword of obsolete penal laws ever suspended over their heads? What would be their feelings if their motives were traduced, their faith vilified, their prelates burnt in effigy, and the most holy symbols of their religion, nay, the sign of Redemption itself, trampled under the feet of men? It is time for them surely to think of these things; to discard the ambiguous watchwords of theological war; to fall back upon an humbler, yet loftier maxim, and "do as they would be done by."

The people of England have been carried away by the passion of the moment. Those are not their

true friends (nor will they be so esteemed hereafter) who would impress upon the spleenful impulse of the moment, the permanent seal of law. When the present excitement is over, that people will fall back, by a natural instinct, upon nobler cares and kindlier memories. They will remember that their Catholic brethren have, at periods of no imaginary danger, done their duty to their country ;—that, by sea and land, they have been no niggards of their blood. Many of them will remember that Catholics have toiled beside them in a field not less glorious than those of honourable war, and sustained the burthen and the heat of the day, during the arduous struggle for civil and religious freedom. That battle was gained ; and every religious Persuasion in England, except one, enjoys without molestation, at once civil liberty, and, the right of maintaining whatever form of faith, discipline, and Church government its conscience approves. Englishmen will hardly, after consideration, deprive their brethren of these common privileges. They will not forget that they owe to them a vast debt of restitution for the persecutions of successive centuries. Mob orators, and itinerant preachers, will not long be able to delude the English people with such a conception of that religion which prevails over the greater part of the civilized world, as would, if true, deprive their brethren of all their sympathy, and their ancestors of all their respect. No patriot

will easily allow himself to be persuaded that the greatness of his country dates exclusively from the last three centuries: no one who reads history can forget that it was to such men as have now to plead for their liberties, that England owes the germ of all she possesses of precious in laws and in letters, in faith, in manners, and in arts. The Past is the vindication of the Present, and the Present attests the Past:—if there are any who forget this, there is much to remind them of it: they have but to look back, and then look around them.

Let them present to their minds the picture of Augustine, with his monks, going forth to convert England from that heathen state in which were dimly shadowed forth but few of the elements of her future greatness: and then let them turn their eyes to the England of the present day. They will behold the Catholic priests, regardless of insult and ridicule, careless of toil and privations, exalted by a noble enthusiasm above the reach of disgust, winning the most depraved by a loving pity, threading, day after day, and night after night, the noisome purlieus of the great manufacturing cities, and rescuing, by their energy, their piety, and their humility, thousands of immortal souls to the general fold of Christianity.

If British statesmen should indeed be willing to cut themselves loose from the noblest precedents of modern legislation, let them at least be sincere with themselves and with their country. No matter what

specious titles they may assume, political, like personal acts, retain their essential character, and are called eventually by their names. A law, prohibiting, with penalties, such an organization for the Catholic Church as previously was not illegal, and, but for that law, could not have been interfered with, will be regarded by Catholics, and by the World, as a penal law, and will be resisted as such. Catholics have for several years urged the repeal of statutes which they esteemed obsolete, on the ground that they were, notwithstanding, insults. If these statutes be recognised by the Legislature as the Law of the land, and the measure of the Constitution, it remains but for Catholics to contend for a new and real Emancipation Act. If their former friends have really learned, now for the first time, that the Papal Supremacy is part of the Catholic religion, and that the difference between a Spiritual and a Constitutional Supremacy is but an evasion;—if they, like the Orange party of old, have discovered that a foreign ecclesiastical jurisdiction, whether recognized, or but tolerated, is inconsistent with political Independence, it may indeed be their sad duty to act on their late convictions; but, at least, let them act openly. All religions are not worthy of toleration. If Catholicism be one of the prohibited religions, as Christianity was while the Roman Pantheon extended its ample arms, let the fact be proclaimed as well as acted on. Yet even in this case, it may be well first to look back, and

observe the degree of success which has attended past persecutions—no doubt in their day, inaugurated in the name of Liberty, and vindicated under the pretext of Charity itself.

The most recent instance is that of the Penal Laws in Ireland. How far have they succeeded in their special object? We need not review their political effects, on which we have already touched, and as to which little difference of opinion exists. Those results may be summed up in the word, "pauperism." It is that very pauperism which has driven the Irish emigrant a fugitive, not an aspirant, to every British colony, to America, and to England. Wherever the enterprise of the robust Saxon has opened the way, the Celt, his Catholic brother, has followed in his footsteps, and planted the Cross. The weakness of a despised people has proved the strength of that religion which compasses the remotest borders of this mighty empire, the mould of a future world, and rises up, an unexpected apparition, at its centre. Religious men will see in this a Providential retribution. Reflecting men will ask themselves why that persecution failed, and whether a persecution, in these days, is likely to be as long maintained, and as stringently carried out.

Great truths must be spoken strongly and plainly. England cannot afford to legislate for the Catholics separately from the rest of her people. She cannot afford to lose their affections. It is an unwise thing to tell them that, if they would know what the Con-

stitution is, they must grope for it among the ruins of the Penal Laws. It is a dangerous thing to put enmity between a third part of the Queen's subjects and the laws of their country. Abroad, events, sudden and strange, succeed one another with a dizzy swiftness. Men's minds are disquieted; and dark clouds are sweeping across the political horizon of the world. England cannot afford to lose the respect of foreign nations. She must not be the libeller of her own great name. If, indeed, alike forgetful of justice, generosity, wisdom, and gratitude, she should attempt to restrict the Religious Liberty of her people, and recommence that warfare of which the end comes not soon, let her remember that she assails with one blow the two principles which Englishmen count as first and second in the scale of things sacred. Such warfare is in vain. Religious zeal restricted gains strength from compression; and Liberty, denied a place in the Constitution, finds beneath it a secure if a sunless retreat. It was the voice from the Catacombs, not that from the Temples, which shook the foundations of Imperial Rome.

FINIS.

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